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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,639	04/15/2004	James Donald Koskey JR.	KHI-0401	9016
25007	7590	08/27/2007	EXAMINER	
LAW OFFICE OF DALE B. HALLING, LLC			ROBINSON, DANIEL LEON	
655 SOUTHPOINTE CT, SUITE 100				
COLORADO SPRINGS, CO 80906			ART UNIT	PAPER NUMBER
			3742	
			MAIL DATE	DELIVERY MODE
			08/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/825,639	KOSKEY, JAMES DONALD
	Examiner	Art Unit
	Daniel L. Robinson	3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 May 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Claim Rejections - 35 USC f 103

obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

(a) A patent may not be obtained though the invention is not identically disclosed or described as set

forth in section 102 of this title; if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanfield (5,371,340) in view of Feibus (5,685,257) and further in view of Raitanen et al (6,044,794), Boulet d' Auria(U.S.Pat.5,229,581) and Hughes(U.S.Pat.6,256,818).

Stanfield discloses an animal-pet electrical heating pad 10 comprising two protecting layers 12 and 14 made of styrene-ABC and polyvinyl chloride PVC (col. 2, lines 40-67) and resistive heating wires 42 and 44 sandwiched between the two layers 12 and 14, and a transfer foil 32, but does not disclose a truncated folded circle and a fire retardant covering.

Feibus discloses a pet cushion comprising covers 12 and 30 that can be formed from a

Art Unit: 3742

single sheet and folded in half (col. 4, lines 4-15) and the cushion covers 12 and 30 are fire resistant (col. 4, lines 26-40).

Raitenan, Hughes and Boulet d' Auria both discloses a heater comprising a cover 14 having a shape of a truncated circle on the sides (Fig. 1).

It would have been obvious to one having ordinary skill in the ad to modify Stanfield's invention to include a fire resistant covering formed from a single sheet folded in half as taught by Feibus in order to enhance the process of making the cushion and reduce cost, also in order to protect pet from potential injures due to heat or fire, and also the covering having a truncated shape as taught by Raitenan and Boulet d' Auria in order to better fit the pet

mat into the doghouse or as in the case of Boulet d' Auria to weld plastic cylinders..

As for claims 2 and 5, Stanfield discloses bonding - sealing of the layers 12 and 14 by waterproof adhesive, or other method could be used for bonding these layers (col. 2, lines 50-59).

As for claim 6, it would be obvious to make a width of the truncated circle 10% shorter than a radius as a matter of design choice in order to obtain result wanted by user.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stanfield in view of Feibus, Boulet d' Auria, Hughes and Raitenan and further in view of Graflind.

Stanfield in view of Feibus and Raitenan discloses substantially the claimed invention

including the heat transfer foil 32, but does not disclose a second heat transfer foil.

Graflind discloses a heating pad having several heating foils 11-18. It would have been obvious to one having ordinary skill in the ad to modify Stanfield's invention to include a second foil as taught by Graflind in order to better absorb heat and conserve energy as taught by Stanfield (col. 4, lines 26-32).

Regarding Applicant's argument that Reitanen does not show a truncated circle but shows only an "oval shaped pet bed" please note an oval shape is a truncated circle since truncated means (dictionary.com) "to shorten by cutting off a part" and clearly an oval is by definition(dictionary.com) an ellipse(elliptical), and an ellipse is a function as per  $(x \text{ squared}/a \text{ squared}) + (y \text{ squared}/b \text{ squared}) = 1$ , for the case where a does not equal b we have an ellipse or oval, and the difference a-b is the amount shortened or cut off the realize the truncated circle as claimed. Regarding Applicant's argument that Boulet d'Auria shows only a pipe or tube please see figure 5 showing a conductive element, shaped as a (col. 6 lines 8-12" in the form of a truncated circle") truncated circle, that is folded over and used to join interconnecting pieces of plastic. Applicant's argument that none of the prior art shows to fold the heater please see Boulet d'Auria col.34-35 "having a saddle forming connection portion", and Feibus col. 4 lines 5-10 "formed from a single sheet folded in half". Also the method of making "folding" is not germane to a product claim. Hughes clearly shows a folded cover in ht eshape of a truncated circle.

Regarding Applicant's argument that "the top sheet in Stanfield is "relatively rigid" please note that Stanfield claims a animal heating pad made of layers of bubble insulation, layers of foil insulation and a heating circuit and a plastic surface all foldable elements. Regarding Applicant's argument that the Boulet d'Auria reference is non-analogous please note Boulet d'Auria solves the same problem of heating a surface of an object. Regarding Applicant's argument that none of the references shows discuss the problem of making a heated pet mat for an "igloo" or a round pet house please note neither is claimed and also a round pet house is not in any of the drawings.

Regarding Applicant's argument that any claim further defines the shape of the mat please note a change in shape of a prior art device is a design consideration within the skill of the art. *In re Dailey* 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Also if, as recited in the brief, the shape can be round or igoo or truncated circle or truncated semi circle shape obviously is not that critical to the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Robinson whose telephone number is 571-272-4788. The examiner can normally be reached on m-f 5:30-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dlr



DANIEL ROBINSON  
PRIMARY EXAMINER